

public safety organization — and, possibly, a third technology (and third set of performance standards) to support a third public safety organization. Consequently, any deployment obligation on carriers should be imposed only after the requesting public safety organization can demonstrate that other public safety organizations served by the same carriers do not oppose the plan and do not intend to impose more stringent or significantly modified performance standards.

This coordination consideration demonstrates again the need for nationwide industry interface and performance standards. With such common standards, there should be little or no risk of different public safety organizations requesting different, and potentially conflicting, requirements.

3. Protection From Negligence Liability. Public safety organizations will be requesting carriers to expend their resources to provide a benefit to public safety organizations using an untested and unproven technology. In these circumstances, it would be most inequitable to hold carriers (or their vendors) liable for mere negligence or unintentional errors in providing a public service which the government has requested be provided. If the government is going to require private industry to expend its finite capital for the benefit of the government, at minimum the government should protect the private in-

dustry from negligence lawsuits stemming from its mandate.²⁸ Consequently, any deployment obligation on carriers should be imposed only after the requesting public safety organization either agrees to indemnify carriers and their vendors for negligence and unintended errors or obtains immunity for carriers and vendors.²⁹

Any plan of the sort described above must contain two additional considerations. First, carriers must be free to demonstrate to the appropriate regulatory agency that the request of one or more public safety organizations is not technically feasible, is not cost justified, or is otherwise unreasonable under the circumstances. However, if a carrier opposes a proposal to deploy the infrastructure to support a requested enhanced wireless 911 capability, it is reasonable for the carrier to bear the burden of demonstrating that the proposal is not technically feasible or that the deployment costs outweigh the public benefit.

Second, it can be assumed that some wireless carriers will have deployed a form of wireless ALI capability before any public safety organization

²⁸ ALI research, development, and construction will quickly disappear if the industry risks being subjected to legal exposure. The absence of fair exemption laws will suppress innovation, the development of competitive alternatives, and would appear to result in a higher overall economic cost to society.

²⁹ Carriers and vendors would, of course, remain liable for intentional or wanton and malicious conduct.

submits a bona fide request. In these circumstances, a carrier should not be required to expend additional resources to meet different requests of a public safety organization unless the public safety organization can demonstrate to the appropriate regulatory agency that the benefits of its proposal outweigh the additional costs the carrier will have to incur to comply with the particular request.

V. Conclusion

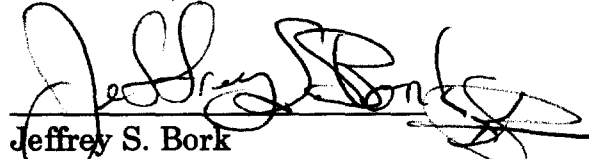
U S WEST recognizes that public safety organizations highly value the availability of wireless location identification and other enhanced wireless 911 capabilities. U S WEST also believes that there is a substantial market for wireless location identification as evidenced by the significant resources it has already expended on research and development.

It is for these reasons that U S WEST has contributed to the PCIA Emergency Access Position Paper, has participated in the recent Joint Experts meetings, and is actively testing innovative solutions to provide a location capability in a cost-effective, yet reliable, manner. Nevertheless, the proposals in the Notice are flawed because they are not practically achievable and do not take account of the unique needs of each public safety organization. For these reasons, U S WEST has proposed a more customer-focused plan which gives all participants the flexibility to design enhanced wireless 911 capabilities that meet the needs of the customer.

For all the foregoing reasons, U S WEST recommends that the Commission release a further notice of proposed rulemaking so public safety organizations, carriers, and vendors have a meaningful opportunity to consider thoroughly U S WEST's alternate proposal and to submit changes they believe are appropriate.

Respectfully submitted,

U S WEST, Inc.

A handwritten signature in black ink, appearing to read "Jeffrey S. Bork", is written over a horizontal line.

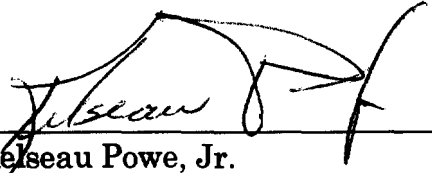
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January 9, 1995

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 9th day of January, 1995,
I have caused a copy of the foregoing **U S WEST COMMENTS** to be served via
hand-delivery upon the persons listed on the attached service list.



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